

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

In Re:	)	IN CHAPTER 7 PROCEEDINGS
	)	
CHEMETCO INC.,	)	BK 01-34066
	)	
Debtor(s).	)	

**SIXTH INTERIM APPLICATION FOR COMPENSATION  
AND REIMBURSEMENT OF TRUSTEE FEES AND EXPENSES**

COMES NOW Donald M. Samson, the Trustee of Chemetco, Inc., and for the Sixth Interim Application for Compensation and Reimbursement of fees and expenses states as follows:

1. On November 13, 2001, Chemetco, Inc. ("Debtor") filed a voluntary Petition for Relief pursuant to Chapter 7 of the United States Bankruptcy Code. The Debtor was a secondary copper smelter which used low grade materials to produce high quality copper. The Debtor's facility was located in Hartford, Illinois and consisted of a 40 acre plan facility ("Plant Site"), adjacent farm ground and real estate located in South Roxana, Illinois. At the time of filing, the main plant contained several buildings which housed furnaces, inventory and supplies. Heavy equipment was located throughout the property. Over 1 million tons of slag, scrubber sludge and process by-products were piled in various locations on the Plant Site.

2. The Debtor has been under investigation by the Illinois Environmental Protection Agency and the United States Environmental Protection Agency for quite some time. Prior to the filing of the bankruptcy, a criminal judgment was entered against the Debtor and in favor of the Department of Justice for environmental violations.

3. The Debtor closed its plant operations on October 31, 2001. Between the time of closing and the filing of the bankruptcy on November 13, 2001, little was done to organize the documents of the Debtor, the equipment, inventory or the plant itself. The Trustee inherited a plant and an office that were in utter disarray.

4. The USEPA recently sought to list the site as a National Priority Superfund Site. At the time the Plant Site was closed, Chemetco left behind approximately 1 million tons of slag and 50,000 tons of scrubber sludge. These materials contain lead and cadmium in addition to valuable metals. The challenge of the Estate has been to maintain while trying to market and sell the Estate site. In the past, real estate developers had shown interest in the site but the slag and scrubbed sludge materials were deterrents to the purchase.

5. On September 21, 2009, the United States Bankruptcy Court approved the sale of substantially all of the assets of the Estate to Industrial Asset Disposition ("Asset Sale"). The Asset Sale encompasses the ultimate transfer of real estate, demolition of buildings coated in hazardous wastes and the processing of over 1 million tons of slag, scrubber sludge and/or metal by-products. The Asset Sale is expected to result in the Plant Site being substantially remediated while producing income to pay claims. The claims of the Illinois EPA and United States EPA total \$177 million dollars ("EPA Claims"). A portion of the EPA Claims is based on the estimated costs to clean the Plant Site, which amount substantially dilutes the distribution to unsecured creditors. The process being developed by IAD is expected to result in the sale and removal of over 1 million tons of slag, scrubber sludge and metal bearing by-products from the copper smelter operation (collectively "Metal By-Products"). The removal of the Metal By-

Products will substantially reduce the claims of the IEPA and USEPA resulting in a more significant distribution to the unsecured creditors.

6. On March 9, 2010, Laura K. Grandy resigned as Trustee for the Estate of Chemetco due to her appointment as the Chief Bankruptcy Judge for the Southern District of Illinois and Donald M. Samson was appointed as Successor Trustee. Reference herein to the Trustee refers to both Trustees during their applicable tenure as Trustee for the Estate of Chemetco.

7. The Trustee has been responsible for the day-to-day maintenance and liquidation of the assets of Chemetco, Inc. Since the filing of the Fifth Interim Application for Trustee Fees and Expenses, the Trustee has continued to meet weekly with the staff of the Estate of Chemetco and representatives of Paradigm Minerals and Environmental Services Inc. ("Paradigm"), assignee of the Asset Purchase Agreement by IAD, to review ongoing operations and do short and long term planning including:

A. Demolition of Foundry Facility- The trustee with the staff of the Estate of Chemetco has coordinated with Paradigm and A.I.S. the decontamination and demolition of the foundry building and other structures comprising the foundry facility in accordance with the demolition work plan. The bulk of the demolition has been completed and A.I.S. anticipates that its work crew will be finished before the end of the year.

B. Sale of Scrap Metals and Salvage Items from the Demolition- The trustee has coordinated with Paradigm and A.I.S. the sale of all scrap metal and salvage items from the demolition of the foundry facility. During the period covered by this application the trustee has sold scrap steel, stainless steel, aluminum and salvage items from the demolition in the approximate amount of \$1,475,000.00.

C. Sales of Furnace Cleanup, Scrubber Sludge & Mixed Fines- The trustee working with Paradigm negotiated the sale of approximately 8,000 metric tons of mixed fines, scrubber sludge and furnace cleanup. A sale was originally negotiated with H&H Metals for approximately half the mixed fines and scrubber sludge with the anticipation that H&H Metal would contract for the second half of the materials. A work plan was approved by the Illinois EPA and bulk loading of the first two containers (approximately 40 metric tons) was completed by the employees of the Estate of Chemetco, however, the shipper for H&H Metals would not take the material in bulk loads. Efforts were made to find a shipper that would take the material in bulk and after an exhaustive search no shippers were found to transport the material in bulk due to the hazardous classification of the materials. With bulk loading no longer an option the only remaining option was to transport the material in one ton bags which increased the cost and increased the time required to load each container. Chemetco is currently bagging and selling the scrubber sludge and mixed fines to H&H Metals pursuant to a revised agreement and to California Metals & Alloys. The furnace cleanup was sold to Aurubis in Germany and the sale has been completed.

D. Consent Decree & Pilot Plant- Paradigm submitted its report of test results to the U.S.E.P.A. and Illinois E.P.A. in August 2011, which spurred new efforts to negotiate a consent decree that would allow the estate to move toward the ultimate goal of processing the raw material for sale and eliminating the hazardous material at the site. The trustee has met with attorneys for both agencies, Paradigm and the estates environmental counsel and worked with counsel for all parties on revisions of the last draft of the consent decree. The District Court has scheduled periodic status conferences to monitor the progress towards a consent decree.

E. Interim Order- The trustee has coordinated with all parties two extensions to the interim order to allow the completion of the demolition project with sales of the scrap and salvage items from the demolition and

the sales of scrubber sludge, mixed fines and furnace cleanup. The Interim Order has currently been extended to February 1, 2012.

F. Allocation of Revenue- The administration of the estate moved into a new phase in 2011 as previously the trustee had sold assets reserved solely to the estate under the terms of the Asset Purchase Agreement. With the sales described herein the trustee was now selling assets which were subject to the interest of Paradigm under the terms of the Asset Purchase Agreement as modified and clarified by orders of this Court. The trustee worked with counsel for the estate, Paradigm and Commerce Bank pursuant to prior orders of the Court to establish a formula for the allocation of the proceeds from the subject sales and filed a Motion to Allocate Funds from the subject sales. After a hearing on an objection filed to the motion, the trustee obtained an order authorizing the allocation of funds as set forth in the motion. The order granting the Motion to Allocate Funds is currently on appeal to the District Court.

G. Furnaces- Pursuant to Notice of Intent to Sell filed September 28, 2007, a sale of three (3) furnaces to Metallo-Chimique NV was authorized by the Court. The trustee consulted with counsel after Metallo-Chimique NV failed to perform on the contract and authorized the filing of litigation in the Bankruptcy Court to recover damages for the breach. The trustee has had numerous meetings and phone consultations with counsel concerning the litigation and preliminary settlement negotiations with Metallo.

8. Trustee's fees may be awarded pursuant to §330 of the United States Bankruptcy Code based upon the statutory percentage set forth in §326 of the United States Bankruptcy Code. Pursuant to §326, the trustee's fees are calculated based on a percentage of the distributions made in the bankruptcy estate by the trustee. Listed below are the distributions made by the Trustee during the period covered by this application:

Total Distributions from 11/18/10 through 11/22/11	\$2,841,513.94
Calculation of Trustee's Fees Based on Distributions	
3% of \$2,841,513.94	85,245.42
Less Trustee fees paid pursuant to Orders on Motions	
to Pay Secured Creditors	(6,064.54)
Trustee Fees Due:	\$79,180.88

9. That pursuant to order of this Court entered 5/4/10 the above-captioned fees are to be paid 2/3 to Mathis Marifian & Richter Ltd. and 1/3 to Donald M. Samson.

10. After reviewing prior fee applications it was discovered that for the period 11/13/01 through 11/17/10 the trustee's fee had been underpaid as shown by the following calculations:

Total Distributions from 11/13/01 through 11/17/10	\$14,641,579.55
Calculation of Trustee's Fees Based on Distributions	
25% on \$5,000.00	1,250.00
10% on next \$45,000.00	4,500.00
5% on next \$950,000.00	47,500.00
3% over \$1,000,000.00	<u>409,247.54</u>
Total trustee fee:	462,497.54
Less Trustee fees paid:	(425,211.92)
Trustee Fees Due:	\$37,285.62

11. That all of said recalculated fees are payable to Mathis Marifian & Richter, Ltd.

12. The fees requested, which are based on the statutory percentage set forth in §326 of the Code, are reasonable considering the substantial amount of time the Trustee has had to devote to his case, the risk that certain assets would not sell, the environmental risks and the immediacy of the issues presented to the Trustee. The Trustee has also analyzed various areas where the Bankruptcy Estate can save money by utilizing current staff employees.

13. The Trustee incurred expenses in conjunction with his duties as Trustee during this period for mileage in the amount of \$2,214.93 based on 4,343 miles @ \$0.51 per mile. Donald M. Samson, trustee, has received no reimbursement for postage and copying expense for the period from his appointment on March 9, 2010 through November 22, 2011 and requests reimbursement for postage of \$880.32 and reimbursement for copies of \$469.60 for said period for a total reimbursement for expenses in the amount of \$3,564.85.

**WHEREFORE**, based on the foregoing, the Trustee respectfully requests this Court enter its Order: (a) granting allowance of the Trustee's interim request for fees in the amount of \$116,466.50 on the above disbursements and reimbursement of expenses incurred in connection with those services in the amount of \$3,564.85; (b) authorizing the Trustee to pay said fees and expenses from the assets currently held by the Trustee; and (c) granting such other and further relief as this Court deems just and equitable.

DATE: 11/30/11

/s/ Donald M. Samson  
DONALD M. SAMSON, Trustee  
226 West Main Street, Suite 102  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 30<sup>th</sup> day of November, 2011, a copy of the document, Sixth Interim Application for Compensation and Reimbursement of Trustee Fees and Expenses, was served upon all listed with the Court and the following electronically:

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